

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-094548

10/24/2012

HONORABLE CHRISTOPHER COURCY

CLERK OF THE COURT

L. Nevenhoven

Deputy

ATLAS NO 000406219600 (IV-D)
IN RE THE MARRIAGE OF
JEREMY COLLINS

JEREMY COLLINS
UP

AND

HEIDI COLLINS

HEIDI COLLINS
2855 E BROADWAY RD APT 303
MESA AZ 85204

AG-CHILD SUPPORT-EAST VALLEY
OFFICE
DOCKET-FAMILY COURT-SE
FAMILY COURT SERVICES-CCC
IV-D JUDICIAL ASSISTANT - SE

DECREE OF DISSOLUTION OF MARRIAGE

The Evidentiary Hearing in this matter was conducted on October 19, 2012. During the proceedings, the Court heard from the witnesses, including the parties, Petitioner, Jeremy Collins ("Father"), and Respondent, Heidi Collins ("Mother"). The Court has since considered the evidence, including the demeanor of the witnesses, and considered the parties' arguments and agreements. After deliberation, the Court makes the following findings and enters the following orders:

THE COURT FINDS as follows:

- A. At the time this action was commenced at least one of the parties was domiciled in the State of Arizona and that said domicile had been maintained for at least 90 days prior to the filing of the Petition for Dissolution of Marriage.

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- B. The conciliation provisions of A.R.S. § 25-381.09 have either been met or do not apply.
- C. The parties were married on July 7, 2007. By operation of law, the marital community is deemed to have terminated on September 26, 2011. (Wife requested reinstatement of petition on May 21, 2012).
- D. The marriage is irretrievably broken and there is no reasonable prospect for reconciliation.
- E. There is one minor child common to the parties (the “Child”), namely:
 - Justin Collins, born March 5, 2008
- F. This was not a covenant marriage.
- G. Mother is not pregnant.
- H. To the extent that it has jurisdiction to do so, the Court has considered, approved and made provision for the maintenance of each spouse and the division of property and debts.
- I. The parties have knowingly, intelligently, and voluntarily entered into an Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (Divorce) With Children – Partial Agreement (the “Agreement”), filed March 19, 2012.

DISSOLUTION OF MARRIAGE

IT IS ORDERED dissolving the marriage of the parties and restoring each party to the status of a single person.

APPROVAL AND INCORPORATION OF AGREEMENT

IT IS ORDERED approving, adopting and incorporating the Agreement by reference into this Decree.

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CUSTODY AND PARENTING TIME

Jurisdictional Findings

THE COURT FINDS that Mother and Father have the Child in common. Mother, Father and the Child have resided in Arizona continuously for at least the six months preceding the filing of the petition for dissolution. This Court, therefore, has jurisdiction as Arizona is the “home state” of the Child. *See* A.R.S. § 25-1031.

Best Interest Findings: A.R.S. § 25-403

The Court has considered the agreement of the parties and the factors under A.R.S. § 25-403. The parties have stipulated to a finding that the agreed upon plan is in the best interests of the Child.

THE COURT FURTHER FINDS that there is no history of domestic violence (A.R.S. § 25-403(E) and 25-403.03), any drug related offenses of either party (A.R.S. § 25-403.04) and any sexual offenses (A.R.S. § 25-403.05) sufficient to preclude the award of joint legal custody as agreed.

Legal Custody

THE COURT FURTHER FINDS that based on the above, it is in the Child’s best interests that Mother and Father be awarded joint legal custody of the Child.

IT IS THEREFORE ORDERED awarding Mother and Father joint legal custody of the Children, specifically:

- Justin Collins, born March 5, 2008

Custody Terms

Parental Access To Records And Information- Both parents are entitled to have equal access to documents and other information concerning each Child’s education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.

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Educational Arrangements- Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

Medical And Dental Arrangements- Both parents have the right to authorize necessary emergency medical/dental treatment and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for each Child. Both parents shall cooperate on health matters pertaining to each child and shall keep one another reasonably informed regarding the status of each Child's health. Both parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

Parental Communication- In furtherance of each Child's best interests the parents shall confer and shall consider the views of each parent. The parents shall communicate to address day-to-day and more significant issues. The parents shall use e-mail as their primary method for communication. This method allows the parents to develop their communication and ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail; each party shall have proof as to what was communicated.

Relocation- Neither parent shall relocate the residence of the Child outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations unless that parent first secures the written consent of the other or secures a court order authorizing the move.

Mediation Or Conciliation Services- The parties shall participate in mediation through a private mediator or through this Court's Conciliation Services to resolve any disputes, problems or proposed changes regarding this child custody order or parenting time before seeking further relief from the Court.

Decision Making Authority- When parental decisions are required for major issues in raising the Child and in meeting on-going needs, each parent shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input. If the parents cannot agree after making a good faith effort to come to an agreed upon decision, Mother shall have "presumptive decision making authority." This level of authority shall allow Mother the right to make a preliminary decision that she shall then communicate to Father. If Father believes that Mother's decision is contrary to the best interests

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of the Child, Father shall have the right to obtain his own independent second opinion, at his sole cost and expense, and present his information to the parenting coordinator. Father shall have the burden to demonstrate that Mother's decision is contrary to the Child's best interests. It shall not be sufficient to demonstrate that an alternative decision may have also been in the interest of the Child. If the Parenting Coordinator agrees with Father that Mother's decision is contrary to the Child's best interests, Mother shall have ten days following the receipt of the parenting coordinator's determination to either follow the determination of the parenting coordinator, after which time Father may seek review with the Court.

Parenting Time

A. Regular Schedule:

As a term of the overall custody orders, parenting time shall be exercised as follows:

- Every other weekend, Father will have parenting time with the Child from when Father picks up the Child from daycare on Friday, until Monday morning, when Father drops the Child off at daycare.
- Every week, Father shall also have parenting time with the Child on Wednesday from after work until Thursday morning when he drops the Child off at daycare.
- In the weeks during which Father does not have weekend parenting time with the Child on Saturdays, Father shall also have parenting time on Thursday from after work until Friday morning when he drops the Child off at daycare.
- Any fees resulting from early drop-off or late pick-up will be assessed to the parent who is responsible for the early drop-off or late pick-up.

B. Father's Holidays in Even-Numbered Years; Mother's Holidays in Odd-Numbered Years:

1. **Easter:** From 6:00 p.m. on Friday until 6:00 p.m. on Sunday evening.
2. **4th of July:** From 6:00 p.m. on July 3rd until 9:00 a.m. on July 5th.

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3. **Thanksgiving:** Thanksgiving starts at the end of school before Thanksgiving Day or 6:00 p.m. on the Wednesday before Thanksgiving (whichever is earlier) and ends at 6:00 p.m. on the Sunday following Thanksgiving Day.

C. Father's Holidays in Odd-Numbered Years; Mother's Holidays in Even-Numbered Years:

1. **Spring Break:** All weekdays plus all weekend days.

2. **Halloween:** From 6:00 p.m. to 8:30 p.m. on October 31st.

3. **Fall Break:** All weekdays plus all weekend days. With this schedule, a parent will have both spring break and fall break in a calendar year. However, the schedule ensures that the parents will alternate spring break and fall break by school year, with each parent having one of the school breaks.

D. Other Holidays:

1. **Christmas:** Christmas shall be divided into three segments.

- Mother shall have the Child from the date that school ends for the holiday break or 6:00 p.m. on December 23rd (whichever is earlier) and continue until 12:30 p.m. on December 25th.
- Father shall have the Child from 12:30 p.m. on December 25th until 6:00 p.m. on December 30th.
- Mother shall have the Child from 6:00 p.m. on December 30th until 6:00 p.m. on the day before school resumes at the end of the holiday break or January 1st (whichever is later).
- The normal parenting time schedule shall resume thereafter.

2. **Monday holidays/Three-day weekends** (such as Civil Rights Day, Columbus Day, Presidents' Day, Memorial Day, Labor Day, etc.): The Child will remain in the care of the parent who has the Child for the weekend. The return time will be 6:00 p.m. on Monday.

3. **Father's/Mother's Day:** The Child shall be with Father on Father's Day and with Mother on Mother's Day. Father's Day and Mother's Day shall be deemed to

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begin at 6:00 p.m. on the Friday before the day and ends at 6:00 p.m. on Sunday evening.

4. The Child's Birthdays: Mother will have odd-numbered years, and Father will have even-numbered years. The birthday begins the day before the birthday either after school (or 6:00 p.m. if the birthday Child is not in school) until the morning after the birthday for the start of school (or 9:00 a.m. if there is no school).

5. Parent's Birthdays: The Child shall be with Father on Father's birthday and Mother on Mother's birthday. The birthday begins the day before the birthday either after school (or 6:00 p.m. if the Child is not in school) until the morning after the birthday for the start of school (or 9:00 a.m. if there is no school).

6. All Other Holidays: For any other holidays not detailed above, special occasions or birthdays, the regular access schedule shall apply.

E. Holiday Time Priority: Holiday time shall take priority over regular parenting time and summer vacation time.

F. Summer:

- Mother and Father also each shall have two weeks of uninterrupted parenting time during the summer commencing on a mutually agreed upon date.
- The two weeks may be continuous or may be taken in two separate weeks. If Mother and Father cannot mutually agree, Father shall have precedence in even-numbered years, and Mother shall have precedence in odd-numbered years.
- Father shall notify Mother of his two weeks by April 15th in even-numbered years, and Mother shall notify Father of her two weeks by April 15th in odd-numbered years.
- Neither Mother nor Father may use summer vacation time to preempt the other parent's holiday time scheduled above.

G. Transportation: The parent whose parenting time is beginning will be responsible for picking up the Child at the other parent's residence or at the Child's school.

H. Travel: If either Mother or Father has any desire to travel with the Child outside of the State of Arizona, that parent must provide the other parent with a written itinerary of their travel by no later than thirty (30) days prior to the intended date for travel. If either parent

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travels within the State of Arizona but more than 100 miles from that parent's home, that parent must provide the other parent with a written itinerary of their travel by no later than seven (7) days prior to the intended date for travel. For all travel, the non-travelling parent shall provide addresses and phone numbers for all accommodations at which the Child will be staying. There shall be set times for telephonic contact during periods of travel and, unless otherwise agreed, the non-travelling parent shall place such telephone calls to the Child during travel.

I. Telephone Contact: Each parent shall have reasonable telephone contact with the Child when the Child is in the care of the other parent.

CHILD SUPPORT

IT IS ORDERED referring this matter to the IV-D Calendar for the determination of child support and tax exemptions.

Insurance and Unreimbursed Medical Expenses

IT IS ORDERED that Father shall apply for and attempt to provide medical and dental insurance for the benefit of the parties' Child, starting with the next open enrollment in December 2012. This parent shall provide an insurance card and claim filing information/forms to the other parent. By agreement, all medical, dental and orthodontia expenses incurred for the health and protection of the Child not covered by insurance shall be paid **50%** by Father and **50%** by Mother.

IT IS FURTHER ORDERED that unless good cause is shown, any request for payment or reimbursement of uninsured medical, dental, and/or vision costs must be provided to the other parent within **180 days** after the date the services occur. A receipt shall be provided with such request. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within **45 days** after receipt of the request.

Both parents must use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

Exchange Of Income Information

IT IS FURTHER ORDERED that the parties shall exchange income information every 24 months. Said financial information shall include, but not be limited to: personal tax returns

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with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

SPOUSAL MAINTENANCE

Neither party has asked for spousal maintenance under A.R.S. § 25-319(A).

IT IS ORDERED that neither Father nor Mother is awarded spousal maintenance.

DIVISION OF PROPERTY AND DEBTS

Community/Sole and Separate Property Claims and Debts

The Court shall divide any disputed property in accordance with the property's character. Property is characterized by the time of its acquisition. If acquired by either spouse before marriage or acquired during marriage by gift, devise, or descent, property is characterized as separate property. A.R.S. § 25-213(A). The Court shall assign each spouse's sole and separate property to that spouse. A.R.S. § 25-318(A).

Property acquired by either spouse during marriage is characterized as community property (with the exceptions of property acquired by gift, devise, or descent). A.R.S. § 25-211(A). There is a presumption that any property acquired by either spouse during marriage is community property, unless demonstrated otherwise by clear and convincing evidence. *See Sommerfield v. Sommerfield*, 121 Ariz. 575, 578, 592 P.2d 771, 774 (1979). Any property acquired by either spouse outside of Arizona shall be deemed to be community property if such property would have been characterized as community property had it been initially acquired in Arizona. A.R.S. § 25-318(A).

Equitable Division

The Court shall divide community property equitably, although not necessarily in kind, without any regard to marital misconduct. A.R.S. § 25-318(A). As a general presumption, equitable division requires that community property be divided substantially equally. *See Toth v. Toth*, 190 Ariz. 218, 221, 946 P.2d 900, 903 (1997). However, the court may order an unequal division of community property in consideration of excessive or abnormal expenditures or the destruction, concealment, or fraudulent disposition of property. A.R.S. § 25-318(C).

When dividing property, the Court may consider all related debts and obligations.

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A.R.S. § 25-318(B). To determine property's value, the court shall select a valuation date. The selection of this valuation date rests within the wide discretion of the trial court and shall be tested upon review by the fairness of the result. *See Sample v. Sample*, 152 Ariz. 239, 242-43, 731 P.2d 604, 607-08 (App. 1986).

Unequal Division of Property

Only rarely is unequal division of community property appropriate to achieve equity. *See Toth*, 190 Ariz. at 221, 946 P.2d at 903 (unequal division of property was appropriate because one spouse contributed substantially disproportionate separate funds compared to the other's contribution); *see also Flower v. Flower*, 223 Ariz. 531, 531, 225 P.3d 588, 588 (App. 2010) (unequal division of property was appropriate because the parties incurred substantial community debt to benefit one spouse's separate property); *but see Inboden v. Inboden*, 223 Ariz. 542, 547, 225 P.3d 599, 604 (App. 2010) (vacating an order for the unequal division of property because each spouse had contributed separate funds to joint property).

The Court shall consider all equitable factors before ordering an unequal division of community property, including: the length of the marriage, the contributions of each spouse to the community, the source of funds used to acquire the property to be divided, the allocation of debt, and any other factor that may affect the outcome. *See Inboden*, 223 Ariz. at 547, 225 P.3d at 604.

THE COURT FINDS that this case does not present a unique set of facts or circumstances. Therefore an equal division of community property is appropriate to achieve equity.

Real Property

THE COURT FINDS that there is no real property that is community property to be allocated.

Personal Property

THE COURT FINDS that pursuant to the Agreement, parties have already distributed personal property.

IT IS ORDERED that any personal property belonging to the other spouse that has not been exchanged shall be exchanged as soon as possible, but in any event not later than November 15, 2012.

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Financial Accounts

THE COURT FINDS that there are no financial accounts containing community property requiring allocation.

Retirement Accounts

THE COURT FINDS that the parties have agreed to waive and give up his or her interest in any retirement benefits, pension plans, and deferred compensation of the other party.

IT IS ORDERED that in fairly and equitably allocating the community assets and the community debts, each of the parties shall retain only his or her interest in any retirement benefits, pension plans, and deferred compensation in his or her own name, and each shall waive such benefits, plans, monies and accounts in the name of the other spouse, if any.

Debts

THE COURT FINDS that all community debts have already been allocated pursuant to the Agreement.

THE COURT FINDS that the following community debts were identified:

1. APS/COX	\$999.00
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IT IS ORDERED that the parties have agreed that Father shall be solely responsible for the following:

1. APS/COX	\$999.00
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IT IS ORDERED as follows:

- Father shall be solely responsible for any credit card or debt in his name incurred after service of the Petition.
- Mother shall be solely responsible for any credit card or debt in her sole name incurred after service of the Petition.

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- Any community debts that were not identified at the time of the trial shall be divided equally between the parties.
- Father shall ensure that Mother's name is removed from all the credit accounts assigned to him in this Decree by November 15, 2012.
- Mother shall ensure that Father's name is removed from all the credit accounts assigned to her in this Decree by November 15, 2012.
- Each party shall pay any debt incurred by him or her respectively since the date of service of the Petition in this matter.
- Each party shall indemnify and hold harmless from any and all debts designated as the responsibility of that party by the terms set forth in this Decree.

Equalization

THE COURT FINDS that the above allocation of the real and personal property, when considered with the division of debt, is fair and equitable under the circumstances and that no further adjustments are necessary.

RESTORATION OF NAME

Mother declines on the record to have her name restored.

IT IS ORDERED not restoring Mother her former name.

ATTORNEYS' FEES AND COSTS

Neither party has requested an award of attorneys' fees, costs, or expenses.

IT IS ORDERED each party shall bear all of his or her own fees, costs, and expenses in connection with this matter.

OTHER ORDERS

IT IS ORDERED appointing a Parenting Coordinator. A separate minute entry shall issue.

IT IS FURTHER ORDERED requiring and directing the parties to participate in Alternative Dispute Resolution and/or a Settlement Conference before filing a petition or motion to

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modify any of the Orders in this Decree. Meeting with the Parenting Coordinator in good faith and attempting to resolve all issues raised in Court shall satisfy this obligation.

IT IS FURTHER ORDERED denying any affirmative relief sought before the date of this Order that is not expressly granted above.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/ s / HONORABLE CHRISTOPHER COURY

JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.